

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance •• Administration •• Executive/Legal •• Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

September 17, 1984

Wayne K. Lemieux
Helm, Budinger & Lemieux
4444 Riverside Drive, Suite 201
Burbank, CA 91505

Re: Your Request for Advice
Our No. A-84-223

Dear Mr. Lemieux:

I have reviewed your letter in which you request a clarification to my advice letter No. A-84-108 to James Rozek, District Council, Santa Maria Public Airport District. Because your letter does not indicate that you are someone with duties or obligations under the Political Reform Act or that you are acting as the authorized representative of someone in that position, I cannot provide you with specific advice. Government Code Section 83114(b); 2 Cal. Adm. Code Section 18329(b).

However, I will clarify my advice in letter No. A-84-108. I did not advise that an airport district board member was disqualified for participation in airport hangar rental policy, ipso facto. I only advised that this was the case if there would be a material financial effect.

I also enclose copies of a Commission regulation, as well as several Commission opinions and advice letters which elaborate on the Commission's interpretation of the term "public generally." Because the Commission does not administer or interpret Government Code Sections 1090, et seq., I only bring them to your attention.

Sincerely,

A handwritten signature in cursive script that reads "Robert E. Leidigh".

Robert E. Leidigh
Counsel
Legal Division

REL:plh
Enclosures

Law Offices of

HELM, BUDINGER & LEMIEUX

AN ASSOCIATION, INCLUDING A PROFESSIONAL CORPORATION

RALPH B. HELM
JEROME M. BUDINGER
WAYNE K. LEMIEUX

OF COUNSEL
CHARLES WATKINS

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BURBANK, CALIFORNIA 91505
(213) 849-6473

August 22, 1984

Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95804

Attention: Robert Leidigh, Esquire

Re: Hanger Rental

Your Advice No. A-84-108 concludes that an airport district director(s) is disqualified under the Political Reform Act (PRA) from participating in the formulation of aircraft hanger rental policy because the affected directors also rented hanger space from the district.

We are interested in your advice concerning the converse proposition, namely, whether the PRA prevents a director from renting hanger space (short-term or long-term) from the district.

The following will illustrate how this question can arise. The district, acting through its Board of Directors, establishes hanger rental policy for short-term and long-term leases. The policy establishes a standard lease and authorizes the General Manager to approve such leases without further board action. At the time the policy is established none of the directors intends to occupy any of the hangers described in the policy. After the policy is established, a director seeks to rent a hanger pursuant to the established policy.

We believe that the PRA does not prevent the rental of the hanger to the director under the circumstances described above because the director is not exercising his office when he becomes a tenant by executing the lease presented by the General Manager. Further, if your Advice No. A-84-108 is followed, the director will not participate in discussions concerning subsequent changes in the policy. Under such circumstances, there appears

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Fair Political Practices Commission

August 22, 1984

Page -2-

to be no reason why the director should not be able to thereafter renew the lease under the revised standard policy.

You also concluded in your Advice letter that the "public generally" exception will not apply to the directors activities on the board because the number of hangers available (79) was small compared to the number of people in the jurisdiction.

We are also interested in a further elaboration of the "public generally" rule in light of the following comments: Should the "realities of the market place" be considered in applying what is essential a policy for avoiding improper economic advantage? The aircraft-hanger-renting-public does not include every resident within the jurisdiction. If the number of hangers available is greater than the market demand then the public generally exception should apply because advantage to the director is non-existent and advantage to the agency is manifest. This suggested elaboration should be limited to commercial type actions for which a relatively stable and significant market can be established.

HELM, BUDINGER & LEMIEUX


Wayne K. Lemieux

WKL:dh

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August 28, 1984

Wayne K. Lemieux
Helm, Budinger & Lemieux
4444 Riverside Dr., Ste. 201
Burbank, CA 91505

Re: A-84-223

Dear Mr. Lemieux:

Your letter requesting advice under the Political Reform Act has been referred to Robert E. Leidigh, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

Barbara A. Milman
Barbara A. Milman
General Counsel

BAM:plh

Section 18703
Ferraro Op, 78-009
Overstreet Op. 80-010
Owen Op. 76-005
Gillmor Op. 76-089
Jorgenson A-82-214
Carr A-83-046
Morgan A-81-507
Roberts A-81-116